# EXHIBIT E



# **EXHIBIT F**



#### PRODUCT OVERVIEW:

The Original Gorillapod is the lightest and most versatile camera tripod available today. Featuring over two dozen flexible leg joints that bend and rotate, the Gorillapod will firmly secure your compact digital camera to virtually any surface — anywhere and everywhere!

The Gorillapod is the ideal camera accessory for photographers on the go. Throw it in your pocket or backpack and you'll be ready for your next adventure! While the Gorillapod serves all the functions of a traditional camera tripod - steadying your camera under low-light conditions, taking timed group shots, etc. - it is the only tripod malleable enough to provide you with the perfect shot while wrapped around a tree branch, hanging from a pole, or perched on a jagged rock. The possibilities are endless!

#### **PRODUCT FEATURES:**

- Flexible joints bend and rotate 360° to form the perfect shape. The Gorillapod uses high-quality; injection-molded plastic for snug joints that stay firm after lots of action
- The slim-line attachment stays connected to your camera and snaps into the Gorillapod for nearly instant setup
- The Gorillapod's lock ring enables extra security to ensure your camera is safely
- Rubberized ring and foot grips provide extra gripping power to grapple wherever you want to go

#### PRODUCT SPECIFICATION:

Intended for: Compact digital cameras

Max weight load: 275g (9.7oz) Adapter: Universal ¼-in tripod screw Size: 15 x 3 x 3cm (5.9 x 1.2 x 1.2")

Weight: 45.3g (1.6oz) Habitat: Anywhere!

The Gorillapod is available on-line at <a href="https://www.joby.com">www.joby.com</a> and at large retailers such as Best Buy, Amazon.com, Dell, REI, Kodak, and B&H Photo Video

#### PRICING:

Packaged: \$24.95 Unpackaged: \$21.95

Available colors: Grey, Blue, Green, Pink, Red, Yellow

#### **MEDIA CONTACTS:**

Erica Rogers Ashlee Duprey Main: 888.569.5629 x810 888.569.5629 x806 Cell: 415-518-0189 415.279.6142 erogers@joby.com aduprey@joby.com

# EXHIBIT G

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	8	Attorneys for Plaintiff		
	9	JOBY, INC.		
	10			
	11	UNITED STATES DISTRICT COURT		
	12	NORTHERN DISTRICT OF CALIFORNIA		
	13	SAN FRANCISCO DIVISION		
	14			
	15	JOBY, INC., Case No. 3:07-CV-06455 (SI)		
	16	Plaintiff, JOBY'S RESPONSE TO TOCAD'S		
	17	FIRST SET OF INTERROGATORIES v.		
	18	TOCAD AMERICA, INC.,		
	19	Defendant.		
	20			
	21	PROPOUNDING PARTY: TOCAD AMERICA, INC.		
	22	RESPONDING PARTY: JOBY, INC.		
	23	SET NO.: ONE		
	24	Pursuant to Federal Rule of Civil Procedure Rule 33, Plaintiff Joby, Inc. ("Joby") hereby		
	25	objects and responds to Defendant Tocad America Inc.'s ("Tocad") First Set of Interrogatories as		
	26	follows:		
	27	GENERAL OBJECTIONS		
	28	Joby makes the following General Objections to Tocad's First Set of Interrogatories.		
		JOBY'S RESPONSE TO TOCAD'S FIRST SET OF INTERROGATORIES  [ CASE NO. 3:07-CV-06455 (SI)		

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Each of these General Objections is incorporated into the Specific Objections set forth below by this reference, whether or not separately set forth therein.

- 1. Joby objects to all definitions, instructions and interrogatories to the extent that they seek to impose obligations upon Joby that are broader than or inconsistent with the obligations imposed by the Federal Rules of Civil Procedure, the Local Rules of the Northern District of California, and/or relevant standing orders.
- 2. Joby objects to all definitions, instructions and interrogatories to the extent that they seek the disclosure of information protected by the attorney-client privilege, work-product doctrine, or any other applicable privilege or protection, as provided by any applicable law. Joby does not intend to produce such privileged or protected information. Any inadvertent disclosure of any such information shall not to be deemed a waiver of any privilege or protection, and Joby expressly reserves the right to object to the introduction at trial or any other use of such information that may be inadvertently disclosed. Joby objects to the reading, copying, summarizing, or other use by Tocad of such information, and requests that Tocad immediately notify Joby of any instance where Tocad knows, or reasonably suspects, that such an inadvertent production has occurred, and immediately return such information to Joby.
- 3. Joby objects to all definitions, instructions and interrogatories to the extent that they seek documents or information concerning or containing trade secrets, proprietary information, or other confidential or competitively sensitive business information. Such information or documents will be produced in accordance with the terms of the parties' Stipulated Protective Order.
- 4. Joby objects to all definitions, instructions and interrogatories to the extent that they are overly broad, unduly burdensome, seeks information not relevant to any claim or defense in this lawsuit, or otherwise exceed the boundaries of discoverable information.
- 5. Joby objects to all definitions, instructions and interrogatories to the extent that they are vague, ambiguous, fail to describe the information sought with the required reasonable particularity, or are so unintelligible that Joby cannot ascertain what information is responsive.
  - 6. Joby objects to all definitions, instructions and interrogatories to the extent that they

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purport to require Joby to identify documents or communications containing any information
received from a third party under a nondisclosure agreement or other confidentiality obligation.
Joby also objects to producing the contents of any part of any agreement between Joby and a third
party, which, by its terms, may not be disclosed by Joby.

- 7. Joby objects to all definitions, instructions and interrogatories to the extent that they call for the disclosure of information protected by Joby's employees' or any third parties' rights of privacy or other confidentiality obligations.
- Joby objects to all definitions, instructions and interrogatories to the extent that they 8. seek to impose upon Joby an obligation to investigate or discover information, materials or documents from any entity other than Joby.
- 9. Joby objects to all definitions, instructions and interrogatories to the extent that they seek information already in the possession, custody, or control of Tocad, information of public record, or other information equally available to Tocad as to Joby on the grounds that such interrogatory causes unnecessary expense, harassment or annoyance and are unduly burdensome.
- Joby objects to all definitions, instructions and interrogatories to the extent that they are not limited to a relevant time period.
- Joby objects to all definitions, instructions and interrogatories to the extent that they 11. contain subparts, are compound and conjunctive and are otherwise inconsistent with or exceed the number of interrogatories permitted by Rule 33(a) of the Federal Rules of Civil Procedure.
- Joby objects to each and every interrogatory herein to the extent that such interrogatory is duplicative or cumulative with other interrogatories or requests for production served on Joby by Tocad.
- Joby objects to the definition of "Joby", "you", or "your" as overbroad, vague and ambiguous. Joby will interpret this term to mean Joby, Inc. and any entity from whom it has the legal right to obtain the discovery sought herein.
- Joby objects to the definition of "person" as overly broad, vague and ambiguous. Joby will interpret this term to mean "any natural person, company, corporation, sole proprietorship, government entity, partnership, association, and all other entities similar to any of

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the foregoing, however denominated."

- 15. Joby's agreement to furnish information in response to Tocad's First Set of Interrogatories to Joby shall not be deemed to constitute an admission as to its relevancy, nor is it intended to waive any right to object to its admissibility at trial.
- A representation that Joby will produce copies of non-privileged, responsive 16. documents that are within its possession, custody, or control, or any production of such documents, is not a representation that any such documents exist.
- Joby has not yet completed its investigation, collection of information, discovery, or analysis concerning this action. The following responses are based on information known and available to Joby at this time. Joby expressly reserves the right to modify, change, or supplement its responses and to produce additional evidence at trial, whether consistent or inconsistent with these responses.

#### SPECIFIC OBJECTIONS AND RESPONSES

#### **INTERROGATORY NO. 1**:

Identify all persons involved in responding to these interrogatories.

### RESPONSE TO INTERROGATORY NO. 1:

Joby incorporates by reference each of the General Objections as though fully set forth herein. Joby objects that the interrogatory is vague and ambiguous to the extent is seeks the identity of persons "involved" in responding, without specifying the nature of the involvement. Joby also objects to this interrogatory to the extent it seeks discovery of information protected by the attorney-client privilege, work-product immunity, or any other applicable privilege or protection. Joby further objects to this interrogatory on the ground that it seeks information that is neither relevant to any claim or defense in the action nor reasonably calculated to lead to the discovery of admissible evidence. Furthermore, Joby objects to this interrogatory to the extent that it seeks information not relevant to any claim or defense in this lawsuit, or otherwise exceeds the boundaries of discoverable information. Subject to and without waiving the foregoing objections, Joby responds as follows:

The following Joby employees provided information used in responses to these

interrogatories: Ken Minn and Melissa Burns.

#### **INTERROGATORY NO. 2:**

Identify and describe the trade dress of the Joby Gorillapod.

#### **RESPONSE TO INTERROGATORY NO. 2:**

Joby incorporates by reference each of the General Objections as though fully set forth herein. Subject to and without waiving the foregoing objections, Joby responds as follows:

Pursuant to Rule 33(d) Joby responds that the Gorillapod trade dress is shown in the images attached as Exhibit D to the Declaration of JoeBen Bevirt in Support of Joby's Motion for Preliminary Injunction (Dkt. No. 16). The Gorillapod has a body section and three legs made of rounded segments (or "balls") connected together. Each of the segments in the legs has a ring around the middle in a color that contrasts with the color of the segment, and each segment ends in a rounded "foot." The rounded body, the rounded leg segments, the rounded feet, and the contrasting rings give the tripod a playful, striped look.

#### **INTERROGATORY NO. 3**:

Identify all persons with knowledge of the design, manufacture, marketing, and/or sell [sic] of Joby flexible tripods, including but not limited to the Gorillapod product line.

#### RESPONSE TO INTERROGATORY NO. 3:

Joby incorporates by reference each of the General Objections as though fully set forth herein. Joby also objects to this interrogatory to the extent it seeks discovery of information protected by the attorney-client privilege, work-product immunity, or any other applicable privilege or protection. Joby objects to this interrogatory on the grounds that it is overly broad (particularly because of the word "all"), unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence. Joby objects to this interrogatory to the extent that it contains subparts, is compound and conjunctive, and is otherwise inconsistent with Rule 33(a) of the Federal Rules of Civil Procedure. Subject to and without waiving the foregoing objections, Joby responds as follows:

The person with the most knowledge regarding the design of the Gorillapod product line is JoeBen Bevirt. The person with the most knowledge regarding the manufacture of the

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JOBY'S RESPONSE TO TOCAD'S FIRST SET OF INTERROGATORIES

CASE No. 3:07-CV-06455 (SI)

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Gorillapod product line is JoeBen Bevirt. The person with the most knowledge regarding the marketing of the Gorillapod product line is Melissa Burns. The person with the most knowledge regarding the sale of the Gorillapod product line is Ken Minn.

#### **INTERROGATORY NO. 4:**

Identify all customers, distributors, retailers, and/or wholesalers to whom you have sold Joby flexible tripods, including but not limited to the Gorillapod product line.

#### **RESPONSE TO INTERROGATORY NO. 4:**

Joby incorporates by reference each of the General Objections as though fully set forth herein. Joby specifically objects to this interrogatory on the grounds that it is overly broad, unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence. Joby objects to this interrogatory to the extent that it contains subparts, is compound and conjunctive, and is otherwise inconsistent with Rule 33(a) of the Federal Rules of Civil Procedure. Joby will limit its response to distributors, retailers, and/or wholesalers to whom Joby has sold the Gorillapod product line. Subject to and without waiving the foregoing objections, Joby responds as follows:

Pursuant to Rule 33(d), Joby identifies the following documents in response to this interrogatory: JOBY 000001-12.

#### **INTERROGATORY NO. 5:**

Identify what advertising efforts Joby has taken with respect to the Joby Gorillapod product line. For each such advertising method, please identify the amount of money spent on that particular advertising method.

### **RESPONSE TO INTERROGATORY NO. 5:**

Joby incorporates by reference each of the General Objections as though fully set forth herein. Joby objects to this interrogatory to the extent that it contains subparts, is compound and conjunctive, and is otherwise inconsistent with Rule 33(a) of the Federal Rules of Civil Procedure. Joby objects to this interrogatory on the grounds that it is overly broad, unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Joby responds as follows:

JOBY'S RESPONSE TO TOCAD'S FIRST SET OF INTERROGATORIES CASE No. 3:07-CV-06455 (SI)

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Pursuant to Rule 33(d), Joby identifies the following documents in response to this interrogatory: JOBY 000022-32 and JOBY 000289-300.

#### INTERROGATORY NO. 6:

Identify all customers, distributors, retailers, and/or wholesalers who have expended money or to whom you have offered incentives for marketing Joby flexible tripods, including but not limited to the Gorillapod product line. For each such customer, distributor, retailer and/or wholesaler, please provide the following:

- A. Name
- В. Number of Units Sold
- C. Type of Incentives Given
- Amount Customer/Distributor/Retailer/Wholesaler spent on Advertising. D.

#### **RESPONSE TO INTERROGATORY NO. 6:**

Joby incorporates by reference each of the General Objections as though fully set forth herein. Joby objects to this interrogatory to the extent that it contains subparts, is compound and conjunctive, and is otherwise inconsistent with Rule 33(a) of the Federal Rules of Civil Procedure. Joby objects to this interrogatory on the grounds that it is overly broad, unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence. Further, Joby objects to this interrogatory on the grounds that it is duplicative or cumulative with other interrogatories or requests for production served on Joby by Tocad. Joby also objects to the extent that this interrogatory seeks documents or information concerning proprietary information or other confidential or competitively sensitive business information. Subject to and without waving the foregoing objections, Joby responds as follows:

Pursuant to Rule 33(d), Joby identifies the following documents in response to this interrogatory: JOBY 000289-300.

#### **INTERROGATORY NO. 7:**

Identify sales figures attributable to each product in the Gorillapod product line for each of the following categories:

Total Sales in the United States as of March 31, 2008 A.

- B. Total Sales outside of the United States as of March 31, 2008.
- C. Sales in the United States prior to October 1, 2006.
- D. Sales outside of the United States prior to October 1, 2006.

#### **RESPONSE TO INTERROGATORY NO. 7:**

Joby incorporates by reference each of the General Objections as though fully set forth herein. Joby objects to this interrogatory to the extent that it contains subparts, is compound and conjunctive, and is otherwise inconsistent with Rule 33(a) of the Federal Rules of Civil Procedure. Joby objects to this interrogatory on the grounds that it is overly broad, unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Joby responds as follows:

Pursuant to Rule 33(d), Joby identifies the following documents in response to this interrogatory: JOBY 000013-20 and JOBY 000314-329.

#### **INTERROGATORY NO. 8:**

Identify all persons and/or merchants with whom you have communicated regarding confusion between the Gorillapod product line and the Tocad product line. For each such person or merchant, identify the date, nature of contact, and any disclosures made.

#### **RESPONSE TO INTERROGATORY NO. 8:**

Joby incorporates by reference each of the General Objections as though fully set forth herein. Joby also objects to this interrogatory to the extent it seeks discovery of information protected by the attorney-client privilege, work-product immunity, or any other applicable privilege or protection. Joby objects to this interrogatory to the extent that it contains subparts, is compound and conjunctive, and is otherwise inconsistent with Rule 33(a) of the Federal Rules of Civil Procedure. Joby objects to this interrogatory on the grounds that it is overly broad, unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Joby responds as follows:

### **INTERROGATORY NO. 9:**

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Pursuant to Rule 33(d), Joby identifies the following documents in response to this

Identify all persons and/or merchants with whom you have communicated regarding the comparison of quality and design between Gorillapod product line and the Tocad product line. For each such person or merchant, identify the date, nature of contact and any disclosures made.

#### **RESPONSE TO INTERROGATORY NO. 9:**

Joby incorporates by reference each of the General Objections as though fully set forth herein. Joby also objects to this interrogatory to the extent it seeks discovery of information protected by the attorney-client privilege, work-product immunity, or any other applicable privilege or protection. Joby objects to this interrogatory to the extent that it contains subparts, is compound and conjunctive, and is otherwise inconsistent with Rule 33(a) of the Federal Rules of Civil Procedure. Joby objects to this interrogatory on the grounds that it is overly broad, unduly burdensome and is not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving the foregoing objections, Joby responds as follows:

Pursuant to Rule 33(d), Joby identifies the following documents in response to this interrogatory: JOBY 000254-255.

### **INTERROGATORY NO. 10:**

Identify all customers, distributors, retailers, and/or wholesalers who have declined to carry, sell, and/or distribute products in the Joby Gorillapod product line and the causes therefore.

### **RESPONSE TO INTERROGATORY NO. 10:**

Joby incorporates by reference each of the General Objections as though fully set forth herein. Joby objects to this interrogatory to the extent that it contains subparts, is compound and conjunctive, and is otherwise inconsistent with Rule 33(a) of the Federal Rules of Civil Procedure. Joby objects to this request as overly broad, vague and unduly burdensome. Subject to and without waiving the foregoing objections, Joby responds as follows:

Best Buy, Circuit City, Radio Shack, Sahalie, OfficeMax, and Ritz Camera declined to carry, sell and/or distribute products in the Joby Gorillapod product line because of knock-off

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#### **INTERROGATORY NO. 11:**

Identify all customers, distributors, retailers, and/or wholesalers whom you have contacted regarding the "possible patent prosecution" claimed in U.S. Patent Application No. 2007154254 and/or U.S Patent Application No. 20070212163.

#### **RESPONSE TO INTERROGATORY NO. 11:**

Joby incorporates by reference each of the General Objections as though fully set forth herein. Joby objects to this request as overly broad, vague and unduly burdensome. Furthermore, Joby objects to interrogatories addressed to Tocad's counterclaim as improper and irrelevant to the action, for the reasons set forth in Joby's pending Motion to Dismiss Defendant Tocad America Inc.'s Counterclaim (Dkt. No. 57).

#### **INTERROGATORY NO. 12:**

When was the Joby Gorillapod and/or any other flexible tripod utilizing the claims of U.S. Patent Application No. 2007154254 and/or U.S. Patent Application No. 20070212163, first reduced to practice and/or publicly disclosed?

#### **RESPONSE TO INTERROGATORY NO. 12:**

Joby incorporates by reference each of the General Objections as though fully set forth herein. Joby objects to this interrogatory to the extent it seeks information not relevant to any claim or defense in this lawsuit. Furthermore, Joby objects to interrogatories addressed to Tocad's counterclaim as improper and irrelevant to the action, for the reasons set forth in Joby's pending Motion to Dismiss Defendant Tocad America Inc.'s Counterclaim (Dkt. No. 57).

#### **INTERROGATORY NO. 13:**

Please identify the nature of the Spring 1996 Gorillapod disclosure by JoeBen Bevirt referenced in U.S. Patent Application No. 2007154254 and/or U.S. Patent Application No. 20070212163, including but not limited to any person to whom it was disclosed, whether or not a prototype was created, and/or whether or not drawings were made?

#### **RESPONSE TO INTERROGATORY NO. 13:**

Joby incorporates by reference each of the General Objections as though fully set forth

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herein. Joby objects to this interrogatory to the extent it seeks information not relevant to any

claim or defense in this lawsuit. Joby objects to this interrogatory to the extent that it contains

information of public record, or other information equally available to Tocad as to Joby on the

grounds that such interrogatory causes unnecessary expense, harassment or annoyance and is

counterclaim as improper and irrelevant to the action, for the reasons set forth in Joby's pending

subparts, is compound and conjunctive, and is otherwise inconsistent with Rule 33(a) of the

Federal Rules of Civil Procedure. Joby objects to the extent that this interrogatory seeks

unduly burdensome. Furthermore, Joby objects to interrogatories addressed to Tocad's

Motion to Dismiss Defendant Tocad America Inc.'s Counterclaim (Dkt. No. 57).

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Dated: May 9, 2008

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By: Salam Rafeedie

Attorneys for Plaintiff JOBY, INC.

JOBY'S RESPONSE TO TOCAD'S FIRST SET OF INTERROGATORIES CASE NO. 3:07-CV-06455 (SI)

#### **VERIFICATION**

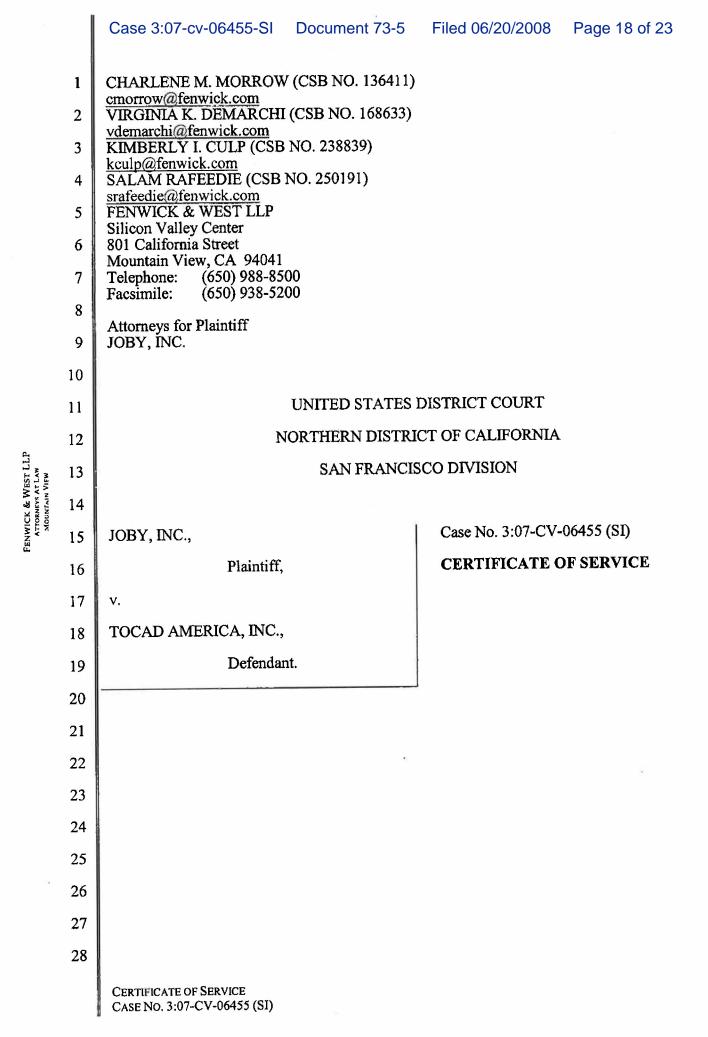
I, Melissa Burns, am a representative for Johy, Inc. and am authorized to make this verification on Joby's behalf. I have read the foregoing JOBY'S RESPONSE TO TOCAD'S FIRST SET OF INTERROGATORIES TO JOBY, INC., and know the contents thereof. To the best of my knowledge and belief, I am informed and believe that the matters stated therein are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: <u>5/9/08</u>

Melissa Burns

25933/00402/LIT/1284389.2



### CERTIFICATE OF SERVICE

The undersigned declares as follows: I am a citizen of the United States and employed in County of Santa Clara, State of California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is Fenwick & West LLP, 801 California Street, Mountain View, California 94041. On the date set forth below, the following document(s) were served electronically and by U.S. Mail: JOBY'S RESPONSE TO TOCAD'S FIRST SET OF INTERROGATORIES on the interested parties in the subject action by attaching to an email or by placing true copy(ies) thereof addressed as follows:

Michael Warnecke mwarnecke@perkinscoie.com Brandy R. McMillion bmcmillion@perkinscoie.com Debra R. Bernard dbernard@perkinscoie.com Andrea S. Homier ahomier@perkinscoie.com PERKINS COIE LLP 131 South Dearborn Street, Suite 1700 Chicago, IL 60603-5559	Jason A. Yurasek jyurasek@perkinscoie.com Kelly Kernan kkernan@perkinscoie.com PERKINS COIE LLP Four Embarcadero Center Suite 2400 San Francisco, CA 94111
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- BY US MAIL: by placing the document(s) listed above in a sealed envelope for collection and mailing following our ordinary business practices. I am readily familiar with our ordinary business practices for collecting and processing mail for the United States Postal Service, and mail that I place for collection and processing is regularly deposited with the United States Postal Service that same day with postage prepaid.
- BY E-MAIL: by causing to be transmitted via e-mail the document(s) listed above to the e-mail address(es) listed above.

I declare under penalty of perjury under the laws of the State of California and the United

States that the above is true and correct.

Date: May 9, 2008

Leslie Rubinstein

FENWICK & WEST LLP ATTORNIYS AT LAW MOLNTAIN VIEW

# EXHIBIT H

#### **MANUAL FILING NOTIFICATION**

Regarding: DECLARATION OF BRANDY R. MCMILLION IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

site at <a href="http://www.cand.uscourts.gov">http://www.cand.uscourts.gov</a> under Frequently Asked Questions (FAQ).

This exhibit is filed in paper or physical form only, and is being maintained in the case file in the Clerk's office. If you are a participant in this case, this filing will be served in hard-copy shortly. For information on retrieving this filing directly from the court, please see the court's main web

THIS EXHIBIT WAS NOT EFILED BECAUSE IT IS PROVISIONALLY UNDER SEAL.

# EXHIBIT I



original Gorillapod



Gorillapod SLR-Zoom

Gorillapod SLR